

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT
WESTERN DIVISION

UNITED STATES OF AMERICA

CASE NO. 3:12-CR091

Plaintiff

-vs-

JUDGE THOMAS M. ROSE

RONNIE D. BROWN

Defendant

ORDER

This matter came before the Court for disposition on April 23, 2013.

The Defendant pled guilty on October 23, 2012 to conspiracy to possess with intent to distribute more than 5 kilograms of cocaine, in violation of 21 U.S.C. 846 and 841.

Said plea was made pursuant to a plea agreement containing a provision pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. Said provision stipulated to a sentence of 144 months to run concurrently with sentences imposed in 3:11 CR 173. Both counts in 3:11 CR 173 carried a mandatory minimum term of 5 years. However, the 5 year term of imprisonment for Count 2, Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in 3:11 CR 173, must be imposed consecutive to any other term of imprisonment imposed on Defendant. The Count of conviction in this case carries a mandatory minimum of 10 years. Therefore, the minimum term of imprisonment that is permissible when considering these violations in both 3:11 CR 173 and this case, 3:12 CR 91, is (180

months) 15 years. The agreed upon sentence under the Rule 11(c)(1)(C) provision of the Defendant's plea agreement is (144 months) twelve years. Therefore, the Court finds that the disposition agreed upon in the plea agreement is contrary to statute, cannot be imposed and must be rejected.

The Court rejects the plea agreement and gives the Defendant an opportunity to withdraw said plea before imposing disposition. The Court would further advise the Defendant that if he elects not to withdraw his plea, the Court will proceed to disposition and said disposition may be less favorable toward the Defendant than the plea agreement and the 11(c)(1)(C) provision contemplated.

This matter is ORDERED set for disposition on the 22nd day of May, 2013 at 2:30 PM. The Defendant is given up to this disposition date to file a motion to withdraw plea.

IT IS SO ORDERED.

April 25, 2013

Thomas M. Rose

JUDGE THOMAS M. ROSE